

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JANICE M. JOLLY,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendants.

Case No. 17-cv-10327-LJM-PTM  
Honorable Laurie J. Michelson  
Magistrate Judge Patricia T. Morris

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**ORDER GRANTING PLAINTIFF JOLLY’S MOTION FOR SUMMARY  
JUDGMENT [8] AND DENYING DEFENDANT COMMISSIONER OF SOCIAL  
SECURITY’S MOTION FOR SUMMARY JUDGMENT [9]**

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Before the Court is Magistrate Judge Patricia T. Morris’ Report and Recommendation. (R. 11.) At the conclusion of her July 31, 2017 Report and Recommendation, Magistrate Judge Morris notified the parties that they were required to file any objections within fourteen days of service, as provided in Federal Rule of Civil Procedure 72(b)(2) and Eastern District of Michigan Local Rule 72.1(d), and that “[f]ailure to file specific objections constitutes a waiver of any further right of appeal.” (R. 11, PID 616–17.) Objections were due on August 14, 2017. It is now September 7, 2017. As such the time to file objections has expired and no objections have been filed.

The Court finds that the parties’ failure to object is a procedural default, waiving review of the Magistrate Judge’s findings by this Court. In *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981), the Sixth Circuit established a rule of procedural default, holding that “a party shall file objections with the district court or else waive right to appeal.” And in *Thomas v. Arn*, 474 U.S. 140, 144 (1985), the Supreme Court explained that the Sixth Circuit’s waiver-of-appellate-review rule rested on the assumption “that the failure to object may constitute a procedural default waiving review even at the district court level.” 474 U.S. at 149; *see also*

*Garrison v. Equifax Info. Servs., LLC*, No. 10-13990, 2012 WL 1278044, at \*8 (E.D. Mich. Apr. 16, 2012) (“The Court is not obligated to review the portions of the report to which no objection was made.” (citing *Thomas*, 474 U.S. at 149–52)). The Court further held that this rule violates neither the Federal Magistrates Act nor the Federal Constitution.

The Court therefore finds that the parties have waived further review of the Magistrate Judge’s Report and accepts her recommended disposition. It follows that the motion for summary judgment filed by plaintiff Janice M. Jolly (R. 8) is GRANTED and the motion for summary judgment filed by defendant Commissioner of Social Security (R. 9) is DENIED. The case is remanded.

SO ORDERED.

Dated: September 7, 2017

s/Laurie J. Michelson  
LAURIE J. MICHELSON  
U.S. DISTRICT JUDGE

#### **CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court’s ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on September 7, 2017.

s/Keisha Jackson  
Case Manager